MONTANA LEGISLATIVE HISTORY

Chapter 441 19 89

Bill H 704 S _____ Original bill & history ✓C

H. Committee on Local Government		S. Committee on Local Government	
Hearing Date(s) Feb 16	✓C	Hearing Date(s) Mar 16	✓C
Feb 18	✓C	Mar 21	✓C
_____	____C	_____	____C
_____	____C	_____	____C
Date Out Feb 18	✓C	Mar 22	✓C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

	4/24	TRANSMITTED TO GOVERNOR		
	4/28	SIGNED BY GOVERNOR		
		CHAPTER NUMBER 636 EFFECTIVE DATE: 4/28/89		
HB 704	INTRODUCED BY COHEN, ET AL.			
	ESTABLISH 5-YEAR LIMIT ON CHALLENGES TO CREATION OF COUNTY ZONING DISTRICTS			
	2/14	INTRODUCED		
	2/15	REFERRED TO LOCAL GOVERNMENT		
	2/16	HEARING		
	2/18	COMMITTEE REPORT--BILL PASSED AS AMENDED		
	2/21	2ND READING PASSED	98	0
	2/22	3RD READING PASSED	94	4
		TRANSMITTED TO SENATE		
	2/28	REFERRED TO LOCAL GOVERNMENT		
	3/16	HEARING		
	3/22	COMMITTEE REPORT--BILL CONCURRED		
	3/23	2ND READING CONCURRED	49	0
	3/28	3RD READING CONCURRED	44	6
		RETURNED TO HOUSE		
	3/30	SIGNED BY SPEAKER		
	3/30	SIGNED BY PRESIDENT		
	3/31	TRANSMITTED TO GOVERNOR		
	4/04	SIGNED BY GOVERNOR		
		CHAPTER NUMBER 441 EFFECTIVE DATE: 10/01/89		
HB 705	INTRODUCED BY HANNAH, ET AL.			
	LIMIT INTEREST TO 10 PERCENT A YEAR ON RETAIL INSTALLMENT SALES			
	2/14	INTRODUCED		
	2/15	REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT		
	2/17	HEARING		
	2/18	COMMITTEE REPORT--BILL NOT PASSED AS AMENDED		
	2/20	ADVERSE COMMITTEE REPORT REJECTED	60	38
	2/21	2ND READING PASSED AS AMENDED	62	37
	2/22	3RD READING PASSED	59	41
		TRANSMITTED TO SENATE		
	2/28	REFERRED TO BUSINESS & INDUSTRY		
	3/09	HEARING		
	3/09	ADVERSE COMMITTEE REPORT ADOPTED	35	8
HB 706	INTRODUCED BY NELSON, T.			
	REVISE SURPLUS LINES INSURANCE LAW			
	2/14	INTRODUCED		
	2/15	REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT		
	2/17	HEARING		
	2/18	COMMITTEE REPORT--BILL PASSED		
	2/21	2ND READING PASSED	99	0
	2/22	3RD READING PASSED	99	0
		TRANSMITTED TO SENATE		
	2/28	REFERRED TO BUSINESS & INDUSTRY		
	3/07	HEARING		
	3/08	COMMITTEE REPORT--BILL CONCURRED		

HOUSE BILL NO. 704

INTRODUCED BY COHEN, WALKER

IN THE HOUSE

FEBRUARY 14, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON LOCAL GOVERNMENT.
FEBRUARY 15, 1989	FIRST READING.
FEBRUARY 18, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 20, 1989	PRINTING REPORT.
FEBRUARY 21, 1989	SECOND READING, DO PASS.
	ENGROSSING REPORT.
FEBRUARY 22, 1989	THIRD READING, PASSED. AYES, 94; NOES, 4.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 28, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON LOCAL GOVERNMENT.
	FIRST READING.
MARCH 22, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 23, 1989	SECOND READING, CONCURRED IN.
MARCH 28, 1989	THIRD READING, CONCURRED IN. AYES, 44; NOES, 6.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 29, 1989

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

INTRODUCED BY House BILL NO. 704

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT AN ACTION CHALLENGING THE CREATION OF A COUNTY PLANNING AND ZONING DISTRICT OR OF A COUNTY ZONING DISTRICT MUST BE FILED WITHIN 5 YEARS AFTER THE DATE OF THE ORDER CREATING THE DISTRICT; AND PROVIDING THAT LAND IMPROPERLY SHOWN ON COUNTY MAPS OR PLATS AS BEING PART OF THE DISTRICT IS CONCLUSIVELY PRESUMED TO BE PART OF THE DISTRICT IF AN ACTION CHALLENGING ITS INCLUSION IS NOT FILED WITHIN 5 YEARS AFTER THE DATE OF THE ORDER CREATING THE DISTRICT."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Limitations on actions challenging creation of a planning and zoning district.** (1) An action challenging the creation of a planning and zoning district must be commenced within 5 years after the date of the order by the board of county commissioners creating the district.

(2) A tract or parcel of land that has been shown on county maps or plats as being within a planning and zoning district but is later found to have been improperly included in the district is conclusively presumed to have been properly included in the district if an action challenging its inclusion is not filed with the district court having jurisdiction within 5 years after the date of the order creating the district.

NEW SECTION. **Section 2. Limitations on actions challenging creation of a zoning district.** (1) An action challenging the creation of a zoning district must be commenced within 5 years after the date of the order by the board of county commissioners creating the district.

(2) A tract or parcel of land that has been shown on county maps or plats as being within a zoning district but is later found to have been improperly included in the district is conclusively presumed to have been properly included in the district if an action challenging its inclusion is not filed with the district court having jurisdiction within 5 years after the date of the order creating the district.

NEW SECTION. **Section 3. Codification instruction.** (1) [Section 1] is intended to be codified as an integral part of Title 76, chapter 2, part 1, and the provisions of Title 76, chapter 2, part 1, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 76, chapter 2, part 2, and the provisions of Title 76, chapter 2, part 2, apply to [section 2].

-End-

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By Chairman Darko, on February 16, 1989, at 3:40 p.m.

ROLL CALL

Members Present: All except:

Members Excused: Rep. Rehberg

Members Absent: None

Staff Present: Lee Heiman, Legislative Council

Announcements/Discussion: None

HEARING ON HOUSE BILL 698

Presentation and Opening Statement by Sponsor:

Rep. Bud Campbell, District 48, stated that the junk vehicle fee was passed in 1973. According to that legislation the county is prevented from selling junk cars or any parts from those cars for anything but crushing. The salary of the Solid Waste Bureau Chief is funded entirely from these funds and previously there were other salaries and expenditures being paid by this fund that have nothing to do with junk vehicles. The cost of administering the program varies from county to county because of the disparity in collecting the cars for crushing. This bill would eliminate the need for an increase in the junk vehicle fee and would also enable counties to sell parts or entire cars to licensed facilities.

Testifying Proponents and Who They Represent:

Will Selser, Lewis & Clark County Health Department
Rep. Ed Grady, District 47
Linda Stoll Anderson, Lewis & Clark County Commissioner
Henry Lohr, self

Proponent Testimony:

Will Selser stood in support of this bill. The ongoing use of funds from this program to fund portions of the State Health Department. There is presently a bill proposing that the

HEARING ON HOUSE BILL 704

Presentation and Opening Statement by Sponsor:

Rep. Ben Cohen, District 3, was unable to present his bill because of illness so Chairman Darko presented it.

Testifying Proponents and Who They Represent:

Mona Jamison, Montana Association of Planners
Tom Jentz, Flathead County Commissioners
Mary Kay Peck, Planning Director, Gallatin County
Robert Rasmussen, Lewis and Clark County

Proponent Testimony:

Mona Jamison stated that there are times when residents actually request zoning. When zoning occurs the residents rely on it and want the assurance that property values will not be affected by changes in zoning. This bill provides that when there is a problem with the zoning there is a five year limit on challenges to the zoning.

Tom Jentz stated that in Flathead County there are 35 zoning districts created by petition of the people in those areas. The commissioners do not take an active role in the creation of these districts. Residents need 60% of the homeowners signing a petition, a map, a legal description, the type of zoning and the county commissioners merely facilitate the process. The intent of this bill is to see that the zoning districts created are maintained. This bill is necessary because zoning covenants expire and the residents usually request that a zoning district be set up with the same provisions as the covenants. There has been circumstances where mistakes have been made and an attack is made on the procedure and the zoning district is threatened. This bill provides that the assurance of zoning is still in place even though procedural errors may have been made. The assurance will only be effective after that five year waiting period.

Mary Kay Peck stated that Gallatin County has more than a dozen of these petition. They do not have the staff to scrutinize each petition and these ordinances provide for property protection and the protection should not be lost because of insignificant errors.

Robert Rasmussen stated that Lewis & Clark County has approximately 30 such districts and research in the past has identified 5 districts that could have been challenged in court due to improper adoption procedures, technical errors or poor records by the planning and zoning commission. This bill would insure the protection of property rights of individuals in

these districts. The county chose to correct the errors before a court challenge and it involved a great deal of work and public meetings. This bill would have saved the effort and expense that could have gone to other uses.

Testifying Opponents and Who They Represent: None

Opponent Testimony: None

Questions From Committee Members: Rep. Gould asked Mr. Jentz if this bill would affect going to the commissioners and asking for a variance in the zoning. Mr. Jentz said that it doesn't affect requests for variance. It only affects how the district was adopted originally. The regulations are still open to question and it doesn't affect the impact or the reasonableness of the zoning.

Rep. Rehberg asked Mr. Rasmussen about page 2, sub 2 where a piece of property has been improperly included, what protection does that person have. Mr. Rasmussen said that he questioned that portion and favors the first section strongly. With regard to the boundary errors he questioned the appropriateness of the language as stated presently.

Closing by Sponsor: Rep. Darko closed.

DISPOSITION OF HOUSE BILL 704

Motion: Rep. Wallin moved DO PASS. Rep. Stickney seconded.

Discussion: Rep. Rehberg suggested amending the section that involved property that is improperly included in the zoning district. It would strike subsection 2 on page 1 and subsection 2 of section 2 on page 2.

Rep. Rehberg asked what the difference between planning and zoning district and a zoning district. With the permission of the committee Linda Stoll Anderson responded that a planning area involves just the city area while a zoning and planning district may go beyond city limits.

Amendments, Discussion, and Votes: Rep. Rehberg moved to amend HB 704. Rep. Good seconded. The motion CARRIED unanimously.

Recommendation and Vote: Rep. Rehberg moved HB 704 DO PASS AS AMENDED. Rep. Good seconded. The motion CARRIED unanimously. As a courtesy to the sponsor and because there are still some questions by committee members the bill will be held in committee.

DAILY ROLL CALL

LOCAL GOVERNMENT COMMITTEE

DATE 2/16/89

NAME	PRESENT	ABSENT	EXCUSED
BROOKE, VIVIAN	X		
BROWN, DAVE	tardy		X
BROWN, JAN	X		
DARKO, PAULA	X		
GOOD, SUSAN	X		
GOULD, BUDD	X		
GUTHRIE, BERT	X		
HANSEN, STELLA JEAN	X		
HOFFMAN, ROBERT	X		
JOHNSON, JOHN	X		
McDONOUGH, MARY	X		
NELSON, THOMAS	X		
REHBERG, DENNIS			X
STICKNEY, JESSICA	X		
WALLIN, NORM	X		
WYATT, DIANA	X		

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VISITORS' REGISTER

Local Government COMMITTEE

BILL NO. 704 DATE 2/16/89

SPONSOR Cohen

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
MARY KAY PECK	GALLATIN COUNTY	✓	
TOM JENTZ	FLATHEAD COUNTY	✓	
Robert Rasmussen	325 Hoffer Helena	✓	
MARNI MCBEATH	HELENA, MT	✓	
Mike Jamison	MT. Assoc. Planners	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Paul Darko
Chairman, Local Government Committee

RE: House Bill 704 - 5 Year Limitation on Zoning District Challenges

Chairman Darko,

I gave testimony before your committee on Thursday, February 16th at the hearing on House Bill 704. Representative Rehberg asked the last question of the hearing. The question was addressed to Bob Rasmussen, Planning Director for Lewis and Clark County. Mr. Rehberg asked what the reasoning was for subsection 2 of the bill which allowed maps of districts to stand, even if they contained mistakes, as long as they have not been challenged for five years. He was concerned about the unknowing property owner.

I would like to respond to that question. When a County Zoning District is created a petition with at least 60% of the property owners in support, a map of the District and a legal description of the District are submitted to the County Commissioners. People can see and identify their property on a map. They can readily determine if they are in or out of a proposed zoning district and can make their wishes known during the adoption process. However, few people can readily read and understand a legal description which may continue for pages. Because of its technical nature, it is very possible to make a mistake in writing or advertising a legal description i. e. the transposing of numbers, miswriting of a coordinate, or the loss of a single word. Therefore, the map and its straight forward nature should carry the burden of intent. This has not been the case. Although we strive for perfection, we never quite attain it and mistakes do occur.

In closing, on behalf of the Flathead County Commissioners, I would urge that you support this bill to protect those people who have sought to protect themselves. Thank you for your time.

Sincerely,

TOM JENTZ
Senior Planner,
Flathead County Planning Board

TJ/dw

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By Chairman Darko, on February 18, 1989, at 12:00 p.m.

ROLL CALL

Members Present: All except:

Members Excused: Reps. Brooke and Nelson

Members Absent: None

Staff Present: Lee Heiman

Announcements/Discussion: None

HEARING ON HOUSE BILL 726

Presentation and Opening Statement by Sponsor:

Rep. Bob Marks, District 75, stated that this bill would clarify problems with zoning beyond county lines. Jefferson County presently has no master plan for zoning and development. Lewis & Clark County does have more extensive planning in some places. The City of Helena is proposing to extend zoning ordinances into Lewis & Clark County as well as into Jefferson County within the limit as prescribed by law. House Bill 726 is an effort to avoid litigation and provide a compromise. This bill provides the procedure for a city to extend its zoning ordinances. A resolution must be drafted indicating the area to be included, the property owners affected be notified, then it must be submitted to the electors of the municipality and the property owners of the area outside of the municipality. An election will be held and a majority of electors as well as a majority of the property owners in the area outside the municipality for the referendum to pass.

Testifying Proponents and Who They Represent:

Bert Glueckert, self
Richard Llewelyn, Jefferson County Attorney
David Anderson, Jefferson County Commissioner
Jim McCauley, Jefferson County Commissioner
Dr. Adron Medley, self

more unfair than elsewhere in the state. It behooves all parties to work together.

Rep. Hoffman stated that the timing of the zoning and the purchase of the land was in question. It was not brought out in testimony whether or not the land was zoned prior to the purchase or after the area was developed.

Rep. Stickney stated that usually existing homes are "grandfathered in" when a new zone is created and that zoning is first and foremost for the protection and safety of the people who live in an area. There are many things considered when zoning is put in place including the amount of space between two homes for fire equipment access and the width of streets for safety considerations. Helena is extending its jurisdiction for these purposes and the current zoning laws have been working quite well.

Rep. Darko stated that both sides should be looked at and presently those affected by the problem have no say either.

Amendments, Discussion, and Votes: None

Recommendation and Vote: Rep. Dave Brown moved to TABLE HB 726. Rep McDonough seconded. Roll call vote was taken. The motion CARRIED 9 to 7.

EXECUTIVE ACTION

DISPOSITION OF HOUSE BILL 698

Hearing Date: February 16, 1989

Motion: Rep. Gould moved DO PASS. Rep. Good seconded.

Discussion: Rep. Good offered amendments.

Amendments, Discussion, and Votes: None

Recommendation and Vote: Rep. Dave Brown made a substitute motion to TABLE the bill. Rep. McDonough seconded. Roll call vote was taken. The motion CARRIED 9 to 7.

DISPOSITION OF HOUSE BILL 704

Hearing Date: February 16, 1989. Rep. Cohen had some concerns with the amendments made by the committee and has been working with some committee members to address these concerns.

Motion: Rep. Wyatt moved to reconsider HB 704. Rep. Hansen seconded. The motion CARRIED unanimously. Rep. Hansen moved DO PASS. Rep. Wyatt seconded. Rep. Rehberg made a substitute motion of DO NOT PASS and Rep. Good seconded.

Discussion: Rep. Rehberg saw no justification for section 2 and it does not allow for protection of the people to protest after the 5 year grace period.

Rep. Hansen suggested that Rep. Cohen be permitted to speak about his concerns with the bill. With the permission of the committee Rep. Cohen suggested that the committee refer to the letter received from Tom Jentz. Exhibit 4. In addition, he stated that the five year period was a good idea.

Rep. Rehberg withdrew his motion of DO NOT PASS.

Amendments, Discussion, and Votes: Rep. Rehberg moved to amend. Rep. Good seconded. Lee read the amendments and explained them.

Rep. Rehberg stated that he was attempting to give all people involved the right to protest the creation of that zone.

Rep. Dave Brown asked Rep. Rehberg if his amendments also apply to subsection 2. Rep. Rehberg said they did not - that they only apply to subsection 1.

The motion to amend CARRIED unanimously.

Rep. Dave Brown offered an amendment to reinsert the stricken subsection 2 on page 1 and 2. Rep. McDonough seconded.

Rep. Rehberg stated his opposition to this amendment because the issue is the ability of a person to protest after a five year period. Subsection 2 delves into a totally different area. Ignorance of the law is no excuse but people should not be penalized for their ignorance of their parcel into a zoning area. The person's land value is being taken away without his knowledge since people are not inclined to go to the county and request to see a zoning map.

Rep. Stickney stated that zoning does not have anything to do with land value but only with land usage. The mere act of zoning does affect the value but what you then do with the land affects the value.

Rep. Rehberg stated that he and Rep. Stickney had a very definite basic difference of philosophy. Zoning does have an impact on the financial value of your land especially with commercial zoning and single family or multi-family zoning.

Rep. Dave Brown had a basic problem with the bill from the standpoint that you should be able to allow for maps and the legal description to count so that a person would be covered in both places.

Roll call vote was taken. The motion to amend a second time CARRIED 9 to 7.

Rep. Rehberg moved DO NOT PASS AS AMENDED. Rep. Good seconded. Roll call vote was taken. The vote was 8 to 8.

Rep. Rehberg moved to TABLE HB 704. Rep. Good seconded. Roll call vote was taken. The vote was 8 to 8.

Rep. Dave Brown moved to delete his amendment (the one re-inserting subsection 2). Rep. Rehberg seconded. The motion CARRIED unanimously.

Recommendation and Vote: Rep. Dave Brown moved DO PASS AS AMENDED. Rep. Rehberg seconded. The motion CARRIED unanimously.

ADJOURNMENT

Adjournment At: 1:35 p.m.

Paula A. Darko

REP. PAULA DARKO, Chairman

PD/td

4211.min

DAILY ROLL CALL

LOCAL GOVERNMENT COMMITTEE

DATE 2/18/89

NAME	PRESENT	ABSENT	EXCUSED
BROOKE, VIVIAN			X
BROWN, DAVE	X		
BROWN, JAN	X		
DARKO, PAULA	X		
GOOD, SUSAN	X		
GOULD, BUDD	X		
GUTHRIE, BERT	X		
HANSEN, STELLA JEAN	X		
HOFFMAN, ROBERT	X		
JOHNSON, JOHN	X		
McDONOUGH, MARY	X		
NELSON, THOMAS	X		X
REHBERG, DENNIS	X		
STICKNEY, JESSICA	X		
WALLIN, NORM	X		
WYATT, DIANA	X		

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ROLL CALL VOTE

LOCAL GOVERNMENT COMMITTEE

DATE 2/18/89 BILL NO. Dave Brown Amendment HB 704 NUMBER

NAME	AYE	NAY
GOOD, SUSAN		X
GOULD, BUDD		X
GUTHRIE, BERT		X
HOFFMAN, ROBERT		X
NELSON, THOMAS		X
REHBERG, DENNIS		X
WALLIN, NORM		X
BROOKE, VIVIAN	X	
BROWN, DAVE	X	
BROWN, JAN	X	
HANSEN, STELLA JEAN	X	
JOHNSON, JOHN	X	
McDONOUGH, MARY	X	
STICKNEY, JESSICA	X	
WYATT, DIANA	X	
DARKO, PAULA	X	

TALLY 9 7

Terri Dore
Secretary

Paula G. Darko
Chairman

Motion: Rep. Dave Brown moved to re-insert the subsection 2 that was deleted on 2/16/89. Rep. McDonough seconded. The motion CARRIED 9 to 7.

Form CS-31

ROLL CALL VOTE

LOCAL GOVERNMENT COMMITTEE

DATE 2/18/89 BILL NO. DNP NUMBER

HB 704

NAME	AYE	NAY
GOOD, SUSAN	X	
GOULD, BUDD	X	
GUTHRIE, BERT	X	
HOFFMAN, ROBERT	X	
NELSON, THOMAS	X	
REHBERG, DENNIS	X	
WALLIN, NORM	X	
BROOKE, VIVIAN		X
BROWN, DAVE	X	
BROWN, JAN		X
HANSEN, STELLA JEAN		X
JOHNSON, JOHN		X
McDONOUGH, MARY		X
STICKNEY, JESSICA		X
WYATT, DIANA		X
DARKO, PAULA		X

TALLY 8 8

Tami Dore
Secretary

Paula G. Darko
Chairman

Motion: Rep. Rehberg moved DO NOT PASS AS AMENDED. Rep. Good seconded. The motion resulted in a tie vote.

Form CS-31

ROLL CALL VOTE

LOCAL GOVERNMENT COMMITTEE

DATE 2/18/89 BILL NO. TABLE HB 704 NUMBER

NAME	AYE	NAY
GOOD, SUSAN	X	
GOULD, BUDD	X	
GUTHRIE, BERT	X	
HOFFMAN, ROBERT	X	
NELSON, THOMAS	X	
REHBERG, DENNIS	X	
WALLIN, NORM	X	
BROOKE, VIVIAN		X
BROWN, DAVE		X
BROWN, JAN		X
HANSEN, STELLA JEAN		X
JOHNSON, JOHN		X
McDONOUGH, MARY		X
STICKNEY, JESSICA		X
WYATT, DIANA		X
DARKO, PAULA		X

TALLY 8 8

Secretary

Chairman

Motion: Rep. Rehberg moved to TABLE HB 704. Rep. Good seconded. The motion resulted in a tie vote.

STANDING COMMITTEE REPORT

February 18, 1989

Mr. Speaker: We, the committee on Local Government report that HOUSE BILL 704 (first reading copy -- white) do pass as amended .

Signed: _____
Paula Darko, Chairman

And, that such amendments read:

1. Title, line 6.
Following: "FILED"
Insert: "BY OCTOBER 1, 1994, OR"

2. Title, lines 8 through 12.
Strike: "; AND" on line 8 through "DISTRICT" on line 12

3. Page 1, line 16.
Strike: "(1)"

4. Page 1, line 18.
Following: "commenced"
Insert: "by October 1, 1994, or"

5. Page 1, line 20.
Following: "district"
Insert: ", if the district was created after October 1, 1989"

6. Page 1, line 21 through page 2, line 3.
Strike: subsection (2) in its entirety

7. Page 2, line 5.
Strike: "(1)"

8. Page 2, line 7.
Following: "commenced"
Insert: "by October 1, 1994, or"

9. Page 2, line 8.
Following: "district"
Insert: ", if the district was created after October 1, 1989"

10. Page 2, lines 9 through 16.
Strike: subsection (2) in its entirety

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By Chairman Ethel M. Harding, on March 16, 1989, at 1:00 p.m. in room 405, State Capitol

ROLL CALL

Members Present: Chairman Ethel M. Harding; Vice Chairman Bruce D. Crippen; Senators R.J. "Dick" Pinsoneault, Tom Beck, Eleanor Vaughn, H.W. "Swede" Hammond, Mike Walker, Gene Thayer, Paul Boylan

Members Excused: None

Members Absent: None

Staff Present: Connie Erickson, Legislative Council; Dolores Harris, Committee Secretary

Announcements/Discussion: None

HEARING ON HOUSE BILL 682

Presentation and Opening Statement by Sponsor:

Representative Mark O'Keefe, house district 45, down town Helena and Unionville, stated HB 682 will allow for 2 tenants of each housing authority to serve on the governing housing board. Under 1976 A.G's. opinion the state of Montana stated that because of the conflict of interest tenants could not serve on housing boards. The federal statute as amended in 1974, states that no person should be barred from serving on the board of directors of the local housing agency because of his tenancy in a low income housing project. Public housing is not in the business for profit, but it's purpose is to serve low income people by providing the basic necessity of housing. He passed out a fact sheet to each committee member and a copy of a federal HUD circular, which states the need and desirability of tenant commissioners to sit on public housing boards. See exhibits # 1 and # 2. This is a basic democratic right in society to be represented in the group that govern you, whether it's housing authorities, or any other government entity.

List of Testifying Proponents and What Group they Represent:

Testimony:

Colleen Allison stated that Columbia Falls has had trouble with SIDs for a period of 10 years and we have been struggling to resolve them. Briefly, it starts where the cities are the vehicle by which the money passes for paid SID districts and pays off the bonds. There has been in the past nothing to say what happens if no one pays them off, and the city is still responsible. So all the city residents end up paying off for a specific group who had the benefit of the SID. She is in favor of this bill, because they need as many tools as possible to bring about a solution to these and get on with the business of running a city. And to find a way to take the troubled properties and make something happen. This would be a tool to help.

Alex Hansen stated with this bill two things happen. The first it allows the deceleration of the SIDs and it allows the waiver of penalty and interest and it allows for refinancing. These are important tools to prevent the total taxpayers from picking up the tab for a select group. Just about every city has a problem with SIDs. This may get some troubled SIDs into new ownership and get people to resume payments and property back on tax paying basis.

Questions From Committee Members: None

Closing by Sponsor: Rep. Wallen stated he hoped this committee will pass this bill.

DISPOSITION OF HOUSE BILL 656

Discussion: None

Amendments and Votes: None

Recommendation and Vote: None

HEARING ON HOUSE BILL 704

Presentation and Opening Statement by Sponsor: Senator Crippen, Senate District 45, Billings, is opening the hearing on HB 705 which is an act requiring that an action challenging the creation of a county planning and zoning district or of a county zoning district must be filed by October 1, 1994, or within 5 years after the date of the order creating the district.

List of Testifying Proponents and What Group they Represent:

Mary Kay Peck, Gallatin Co. Commission
Colleen Allison, Mayor of Columbia Falls
Robert Rasmussen, L & C Co. Planing Dept.
Carol Dailey, Flathead Co. Development Corp.
Mona Jamison,
Grace Edwards, Yellowstone County Commissioner

List of Testifying Opponents and What Group They Represent:

None

Testimony: Mary Kay Peck stated Gallatin County Commissioners support HB 704. This district is formed by citizen petition land owners. They have about 20 zoning districts in Gallatin Co. This bill puts a statute of limitations on the ability to challenge the creation of the district. Please support this bill.

Colleen Allison stated they have found that zoning challenging has been reoccurring more frequently. She supports this bill.

Robert Rasmussen stated Lewis & Clark Co. has 30 zoning districts and in reviewing the procedures they found technical flaws. This legislation will cover those flaws from challenge and change. I urge your support of this bill.

Carol Dailey stated this has been a problem in Flathead County, and an expensive in the past. As a business issue it is important that when they have zoning for consistency, that when the zone is there for 5 years it is assumed that it is as designed. They've had the problem that people come in, buy the property, and later try to change the zoning conditions. This is a good bill and I urge you to pass it.

Mona Jamison, representing the Montana Association of Planners, added that people rely on the zoning, and many people's property values are established in relationship to the established zone.

Grace Edwards stated Yellowstone County supports everything that's been said so far.

Questions From Committee Members: Senator Beck asked why the date of October 1, 1994? Senator Walker stated this bill will go into effect on Oct. 1, 1989 and that is 5 years from that date. Senator Pinsoneault asked

about a notice of public hearing about challenging. Mona Jamison hadn't thought about this bill in terms of notifying the public. She said there is a statute of limitations in so many areas, and people should not be ignorant of the law, so this bill shouldn't be singled out so that they can't have it. Senator Beck asked if this allows a 20 year old zoning district 5 more years to be challenged? Senator Crippen stated it just puts a statute of limitations into effect.

Closing by Sponsor: Chairman Harding closed the hearing on HB 704 and recessed until 5:00 p.m.

DISPOSITION OF HOUSE BILL 704

Discussion: None

Amendments and Votes: None

Recommendation and Vote: None

HEARING ON HOUSE BILL 244

Presentation and Opening Statement by Sponsor:
Representative Bernie Swift, house district 64, Ravalli, stated this is an act protecting shooting range locations, exempting shooting ranges from certain laws relating to litter control, community decay, disorderly conduct, and public nuisance. The objective of this legislation is to preserve and protect those shooting ranges that we have in place. Some are in a completely safe, and totally designated range. The Fish Wildlife and Parks have been going through a preliminary survey, since Sept. 1988. We have on record now 51 designated ranges that are in a safe and controlled condition. There are numerous others that are in varying conditions of meeting standards. Most ranges, 39 of them, are open only to club members, and 12 are open to the public. There are 12 to 15 in unsafe conditions and people are working on them. This bill grandfathers shooting ranges into law so that they will not be in jeopardy of being closed because of certain legal processes that are on the books. He refers to the language on nuisance, noise, and proximity to shooting. He wants to protect the shooting ranges and give them the same posture of other things that are in place, in relation to zoning laws, etc.

List of Testifying Proponents and What Group they Represent:

ROLL CALL

LOCAL GOVERNMENT COMMITTEE

51th LEGISLATIVE SESSION -- 1989 Date March 16

NAME	PRESENT	ABSENT	EXCUSED
Sen. Ethel Harding	X		
Sen. R.J. "Dick" Pinsoneault	X		
Sen. Tom Beck	X		
Sen. Eleanor Vaughn	X		
Sen. H.W. "Swede" Hammond	X		
Sen. Mike Walker	X		
Sen. Gene Thayer	X		
Sen. Paul Boylan	X		
Sen. Bruce D. Crippen	X		

Each day attach to minutes.

DATE March 16 1989

COMMITTEE ON Local Government

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
Carol Daly	Flathead Econ. Dev. Corp.	244		✓
"	"	704	✓	
Colleen Allison	Mayor Columbia Falls	244		✓
		704	✓	
		647	✓	
Bob Lane	PWP	244		
Gordon Morris	MACo	244		✓
D.M. Price	Helena-Planning Bd.	244		✓
Greg Vuckovich	Anaconda-Deer Lodge	682		✓
Robert D. Vinè	Anaconda Housing Auth.	682		✓
Henry R. Smith	Anaconda Housing Auth	682		✓
Carmen Sullivan	Anaconda Housing	682		✓
Mike Stands	Anaconda Housing	682		✓
Charlene Hagan	Anaconda MT.	682		✓
Don Reed	MAPP	682	✓	
H.J. Hagan	Anaconda Housing Auth	682		✓
Angela Russell	HD 99	682	✓	
John M. Gallegos	BCU - Butte, MT	HB683	✓	
Richard B Lynch	24 Main Butte	682	X	
John Ortalan	Nat Cellular Corp	682	X	
GARY S. MARBUT	MRAA, MASC, WMFGA, BSE	HB244	✓	
Brian D Whitehead	MAPA, MRSA, MSGIA	HB244	✓	
BRIAN JUDY	NRA	HB244	✓	
Tom Hannon	Mont Sheriffs & Peace Officers	244		✓
R.L. Brasch	Western MT Fish & Game Assn	244	✓	
Kay Foster	City of Billings	244	✓	

DATE March 16, 1989

COMMITTEE ON Local Government

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Oppose
Chuck Stearns	City of Missoula	HB647	✓	
Bob Goff	City Fls Hsng Auth	HB682		✓
Mike Rattray	Gt. Falls	HB667	✓	
Kevin Hayes	Gt Falls	HB682		
Roger Sanders	Cascade County	HB244		✓
Lucy Brown	Housing Auth of Billings	HB682		✓
Tom Marshall	Montanans for Social Justice	HB682	✓	
Marcia Schreder	MCJC Montanans for Social Justice	HB682	✓	
Virginia Jamison	MCJC	HB682	✓	
Tony Cashmore	Montanans for Social Justice	HB682	✓	
Rod Burch	Mt for Social Justice	HB682	✓	
Howard Gipe	Flathead Co. Comm	HB244		✓
Joseph Moore	Mt. Rainbow Coalition	HB682	✓	
Robert Keller	Concerned Citizen	HB682		✓
James McCabe	" "	HB682		✓
H. Terry Smith	Billings	HB244		
A.H. M. Elwell	WCSW NWWC	HB244	✓	
Jack D. Edwards	Yellowstone Co.	244		✓
Shelly Laige	City of Helena	244		✓
Shelly Laine	City of Helena	682	generally	
Susan Marshall	Helena Housing	682	generally	
MARY KAY PECIC	GALLATIN Co Comm.	244		✓
JEFFREY N. SMITH	BUTTE SILVER BOW	244 HB		✓
Ellen Woodbury	Belgrade City-County	244		✓
LISA ZIER	MSJ	682	✓	
EARL J. REILLY	MONT. SENIORS ASSOC.	282	✓	

DATE March 16, 1987

COMMITTEE ON Local Government

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Dennis M. Flick	City of Billings	244		X
Tim Pierson	Last Chance Ice Harvesters	264	X	
Robert Rasmussen	Lewis & Clark Co. Planning Dept	244		X
Robert Rasmussen	Lewis & Clark Co. Planning Dept	704	X	

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By Chairman Ethel M. Harding, on March 21, 1989, at 12:30 p.m. in room 405, State Capitol

ROLL CALL

Members Present: Chairman Ethel M. Harding; Vice Chairman Bruce D. Crippen; Senators R.J. "Dick" Pinsoneault, Tom Beck, Eleanor Vaughn, H.W. "Swede" Hammond, Mike Walker, Gene Thayer, Paul Boylan

Members Excused: None

Members Absent: None

Staff Present: Connie Erickson, Legislative Council; Dolores Harris, Committee Secretary

Announcements/Discussion: The Montana Association of Counties and the League of Cities and Towns has invited this committee and their spouses to dinner at the Montana Club on March 29, at 7:00 p.m. The committee accepted this gracious offer.

Chairman Harding stated that HB 440 had been amended by this committee and passed out of committee with a do concur recommendation. Because of technical changes, the amendments were a little different than the committee had seen, she wanted them to read them and be certain they approved. The committee members read the amendments and did not find any problem, so Chairman Harding signed the standing committee report. See Exhibit 1.

EXECUTIVE ACTION ON HOUSE BILL 647

Discussion: Chairman Harding stated this is the "Citizen Bonds" bill and there were some amendments suggested at the hearing. Connie Erickson passed out copies of the proposed amendments. See exhibit 1. This is a technical amendment that Rep. Kadas requested. It goes on page 1, following line 21 add a new subsection (4) An officer, employee, contracted financial consultant, or contracted advisor employed or retained by a city or

favor of concurring in HB 682 AS AMENDED say aye. Six senators VOTED yes, DO CONCUR AS AMENDED. Senators Beck, Hammond and Thayer VOTED against HB 682 AS AMENDED. MOTION CARRIED, 6 FOR, 3 AGAINST. Senator Walker will carry HB 682 to the Senate floor.

EXECUTIVE ACTION ON HOUSE BILL 704

Discussion: This is representative Cohen's bill. Connie Erickson stated this bill has to do with zoning districts that were created quite a few years ago and they're trying to put a limit on the amount of time that you can challenge the creation of a district.

Senator Hammond stated that each district will have the same length of time, 5 years, to protest. It's either 5 years from that date of this bill, or 5 years from creation of the district. That's correct. Senator Crippen stated there is a statute of limitations. Senator Hammond says here it's 5 years from the date of this bill.

Senator Walker asked Senator Crippen if this bill encouraged development? Senator Crippen stated it's designed to prevent people from coming in late in the development and telling everyone they're doing things wrong and challenging. Senator Crippen stated as a developer he likes to plan his zoning because it makes a certainty out of uncertainty. He explained that, now, when you create a zoning district there is no time limit to objections and this bill will set a time limit of 5 years.

Recommendation and Vote: Senator Walker MOVED that we DO CONCUR in HB 704.

Senator Hammond stated that in their county there are hearings, and rehearings, this should help some of that. Chairman Harding asked Mona Jamison if she would speak to this bill. Mona Jamison stated that there is still ability to change but after 5 years you won't be able to challenge the district. There are still procedures available to pursue changes. This bill has to do with challenging the zoning of the district as a whole.

Chairman Harding called for the question. All those in FAVOR of CONCURRING IN HB 704 say "AYE". 7 Senators VOTED in FAVOR of HB 704 and Senators Boylan and Hammond VOTED AGAINST. HB 704 carried 7 for, 2 opposed. Senator Walker will carry HB 704 to the Senate floor.

ROLL CALL

LOCAL GOVERNMENT COMMITTEE

51th LEGISLATIVE SESSION -- 1989 Date March 2

NAME	PRESENT	ABSENT	EXCUSED
Sen. Ethel Harding	X		
Sen. R.J. "Dick" Pinsoneault	X		
Sen. Tom Beck	X		
Sen. Eleanor Vaughn	X		
Sen. H.W. "Swede" Hammond	X		
Sen. Mike Walker	X		
Sen. Gene Thayer	X		
Sen. Paul Boylan	X		
Sen. Bruce Crippen	X		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

March 22, 1989

MR. PRESIDENT:

We, your committee on Local Government, having had under consideration HB 704 (third reading copy -- blue), respectfully report that HB 704 be concurred in.

Sponsor: Cohen (Walker)

BE CONCURRED IN

Signed: Ethel M. Harding

Ethel M. Harding, Chairman

3:21 p.m.

ecrhb704.322

HOUSE BILL NO. 704

INTRODUCED BY COHEN, WALKER

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT AN ACTION CHALLENGING THE CREATION OF A COUNTY PLANNING AND ZONING DISTRICT OR OF A COUNTY ZONING DISTRICT MUST BE FILED BY OCTOBER 1, 1994, OR WITHIN 5 YEARS AFTER THE DATE OF THE ORDER CREATING THE DISTRICT; ~~--AND--PROVIDING--THAT--LAND IMPROPERLY-SHOWN-ON-COUNTY-MAPS-OR-PLATS-AS--BEING--PART--OF THE--DISTRICT--IS--CONCLUSIVELY--PRESUMED--TO-BE-PART-OF-THE DISTRICT-IF-AN-ACTION-CHALLENGING-ITS-INCLUSION-IS-NOT-FILED WITHIN-5-YEARS-AFTER-THE-DATE--OF--THE--ORDER--CREATING--THE DISTRICT.~~"

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1.** Limitations on actions challenging creation of a planning and zoning district. (1) An action challenging the creation of a planning and zoning district must be commenced BY OCTOBER 1, 1994, OR within 5 years after the date of the order by the board of county commissioners creating the district, IF THE DISTRICT WAS CREATED AFTER OCTOBER 1, 1989.

~~(2)--A--tract--or-parcel-of-land-that-has-been-shown-on county-maps-or-plats-as-being-within-a-planning--and--zoning district-but-is-later-found-to-have-been-improperly-included in--the--district--is--conclusively--presumed--to--have-been properly-included-in-the-district-if-an--action--challenging its--inclusion--is--not-filed-with-the-district-court-having jurisdiction-within-5-years-after--the--date--of--the--order creating-the-district.~~

NEW SECTION. **Section 2.** Limitations on actions challenging creation of a zoning district. (1) An action challenging the creation of a zoning district must be commenced BY OCTOBER 1, 1994, OR within 5 years after the date of the order by the board of county commissioners creating the district, IF THE DISTRICT WAS CREATED AFTER OCTOBER 1, 1989.

~~(2)--A--tract--or-parcel-of-land-that-has-been-shown-on county-maps-or-plats-as-being-within-a-zoning--district--but is--later--found--to--have--been--improperly-included-in-the district-is-conclusively--presumed--to--have--been--properly included--in--the--district--if--an--action--challenging-its inclusion-is--not--filed--with--the--district--court--having jurisdiction--within--5--years--after--the-date-of-the-order creating-the-district.~~

NEW SECTION. **Section 3.** Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 76, chapter 2, part 1, and the provisions of Title 76, chapter 2, part 1, apply to [section 1].

(2) [Section 2] is intended to be codified as an

REFERENCE BILL

integral part of Title 76, chapter 2, part 2, and the provisions of Title 76, chapter 2, part 2, apply to {section 2}.

-End-